

Larry E. Craig, Chairman  
Jade West, Staff Director

# Legislative Notice

Editor, Judy Gorman Prinkey

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## **S. 858 – The Intelligence Authorization Act for FY 1998**

Reported as an original bill from the Senate Select Committee on Intelligence on June 9, 1997, by voice vote. S. Rept. No. 105-24. On June 16, the bill was referred to the Armed Services Committee for 30 days.

### **NOTEWORTHY**

- While no unanimous consent agreement existed at press time, it is possible the Senate could consider S. 858 this week.
- S. 858 authorizes appropriations for intelligence activities and programs of the U.S. Government, the Central Intelligence Agency Retirement and Disability System, and the Community Management Account of the Director of Central Intelligence.
- The bill: extends for three additional years the President's authority to delay the imposition of proliferation-related sanctions when necessary to protect an intelligence source or method or an ongoing criminal investigation; provides for the disclosure of certain information to Congress by employees of the executive branch and employees of contractors carrying out activities under classified contracts; and, ensures that the U.S. Government takes all appropriate actions to make available to victims and families of victims information regarding murders and kidnappings of U.S. citizens abroad.
- Most of the Committee's specific recommendations related to the Administration's budget request for intelligence and intelligence-related activities are classified; such recommendations are provided in the classified annex which accompanies the bill.

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## HIGHLIGHTS

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The Committee conducted a detailed review of the Administration's three major intelligence budget requests for FY 1998: the National Foreign Intelligence Program (NFIP) of the Director of Central Intelligence; the Joint Military Intelligence Program (JMIP) of the Deputy Secretary of Defense; and the Tactical Intelligence and Related Activities (TIARA) of the Military Services. The Committee's recommendations are summarized below.

### **National Foreign Intelligence Program**

#### ***Areas of Committee Emphasis***

- The Committee recommends important new investments and initiatives in certain high-priority areas, including:
  - Aggressive efforts in the "five C's": counter-proliferation, counter-narcotics, counter-terrorism, counter-intelligence, and covert action;
  - Bolstering advanced research and development across the Intelligence Community to maintain the U.S. technological edge;
  - Improving the skills and tools of clandestine service personnel;
  - Developing new and innovative approaches to understanding "hard target" countries; and,
  - Enhancing analytical capabilities as well as tools for conducting information operations.
- Significant funding increases are recommended in each of the priority areas listed above. At the same time, the Committee recommends reductions in lower-priority, poorly justified programs. Details of these recommendations are included in the Classified Annex accompanying this report.

#### ***National Reconnaissance Program (NRO) Financial Management***

- The Committee continues to watch closely the financial management of the NRO program, and the classified annex to the report includes recommendations for several actions intended to further strengthen NRO financial management.

#### ***Report on Foreign Counterintelligence Reform in the FBI***

- The Committee is concerned that the FBI has not adequately addressed all of the recommendations outlined in the Justice Department Inspector General's report, "A

Review of the FBI's Performance in Uncovering the Espionage Activities of Aldrich Ames." Therefore, the Committee requires that not later than 90 days after the enactment of this act, the FBI Director submit to the Select Committees on Intelligence a report on his intentions regarding the remaining recommendations.

***Providing Intelligence to the Warfighter: The Khamisiyah Experience***

- In its review, the Committee found substantial mismanagement and lack of communication among elements of the military and the Intelligence Community regarding information and warnings provided on Iraqi Chemical Weapons (CW) facilities, including Khamisiyah. Therefore, the Committee requires the Director of Central Intelligence to submit a report to relevant Committees, no later than March 1, 1998, identifying the specific actions that have been taken or are being taken to enhance cooperation between the DoD and the Intelligence Community to improve the provision, handling, and use of intelligence information in preparation for, during, and after battle.

**Joint Military Intelligence Program**

***National Imagery and Mapping Agency (NIMA)***

- The Committee will make final recommendations on funding for NIMA after the Committee reviews the report by the Commercial Imagery Implementation Team regarding a strategy for increased use of commercial, civil and foreign (CCF) imagery.

***Tactical Unmanned Aerial Vehicle (TUAV)***

- The Committee recommends a reduction of \$75 million in the FY 1998 research, development, test and evaluation request for the Outrider TUAV program because serious difficulties in the current Advanced Concept Technology Demonstration (ACTD) program made it clear that the current schedule could not be maintained. According to the Committee, unobligated FY 1997 funds, along with reduced FY 1998 authorizations, should be sufficient to maintain an ACTD of reduced scope.

**Tactical Intelligence and Related Activities**

***Joint Surveillance Target Acquisition Radar Systems (JSTARS)***

- The Committee recommends a reduction of \$20 million in research, development, test and evaluation (RDT&E) associated with JSTARS, given the Quadrennial Defense Review's (QDR) recommendation that the inventory be reduced from 19 to 13 aircraft. Given the QDR's recommendation, the Committee recommends that the RDT&E efforts for JSTARS be refocused to emphasize follow-on platforms and upgraded capabilities to the existing JSTARS aircraft.

## **Improving Intelligence Community Management and Operation**

### ***Subpoena Authority for the CIA Inspector General***

- Until now, the Inspector General (IG) has conducted investigations and inquiries without the subpoena authority routinely employed by all other statutory Inspectors General. The bill includes authority for the IG at the CIA to issue subpoenas to obtain documentary evidence necessary for the performance of the IG mission as established by Congress. The need for such authority was examined during the Committee's CIA IG review.

## **Ensuring Flow of Information to Congress, Policymakers, and the Public**

### ***Providing Information to Victims and Victims' Families***

- The Committee believes it is in the national interests of the United States to provide information regarding the murder or kidnapping of U.S. persons abroad to the families of the victims. Given the difficulty inherent in identifying all relevant information that might be held by disparate elements of the government, and the likely resistance to providing information that is currently classified, the Committee believes this important responsibility must ultimately be vested in a cabinet-level official. Therefore, the Committee has adopted a provision requiring the Secretary of State to ensure that all appropriate actions are taken within the U.S. Government to identify promptly all relevant information and to make it available to families to the maximum extent possible without jeopardizing sensitive intelligence sources and methods or other vital national security interests.

### ***Disclosures of Classified Information to Congress***

- The bill includes a provision designed to ensure that Congress receive information necessary to fulfill its constitutional legislative and oversight responsibilities. The bill directs the President to issue guidance for all executive branch employees and classified contractors making it clear that disclosure of classified information to appropriate oversight committees or the employee's own Congressional representative is not prohibited by any law, executive order, regulation, or policy if the employee reasonably believes that such information evidences: a violation of any law, rule, or regulation; a false statement to Congress on an issue of material fact; or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- This provision recognizes that, at a minimum, the committee with primary oversight jurisdiction over the elements allegedly engaged in wrongdoing and the member of Congress representing the employee have a need to know the information in order to effectively fulfill their constitutional responsibilities. Members of oversight committees who receive information are presumed to have received it in their capacity as members of the committee and are responsible for handling it appropriately. Disclosure would also be permitted to cleared committee staff.

- The Committee has worked closely with the Intelligence Community to establish appropriate procedures for the routine provision of intelligence information to the committees. However, the Committee feels that where these standard procedures fail to get the necessary information to Congress, for example, because the wrongdoing involves the very individuals who have to authorize the disclosure, or the authorization is not forthcoming, then employees must have an alternative.

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## **COST**

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Pursuant to paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimated costs incurred in carrying out the provisions of this bill, for FY 1998, are set forth in the classified annex to this bill. Estimates of the costs incurred in carrying out this bill in the five fiscal years thereafter are not available from the Executive branch and therefore cannot be included in the report accompanying this bill.

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## **ADMINISTRATION POSITION**

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No Statement of Administration Policy was available at press time, but was anticipated to be released shortly.

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## **POSSIBLE AMENDMENTS**

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At press time, no amendments were known.

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